

In the United States Patent and Trademark Office

Serial No. 09/172,830

Filing Date: October 15, 1998

Title: BOOT FOR SKI OR IN-LINE
ROLLER SKATE

Examiner : Kavanaugh, J.

Applicant: Zanco, A.

GA No.: 3728

#14

Atty docket no: 2348-348

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CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8. I hereby certify that this correspondence, comprising
17 pages, is being facsimile transmitted to the Patent and Trademark Office

On MAY 12, 2000 (date)

Typed or printed name of person signing this certificate: DEVINCENTI LAURENCE

Signature of person signing this certificate: Devincenti

**PETITION UNDER 37 CFR §1.181(f) TO RECONSIDER
HOLDING OF ABANDONMENT AND DECLARATION OF FACTS**

Via facsimile to 001-703-305-3579,

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
U.S.A.

FAX RECEIVED

MAY 12 2000

GROUP 3700

Dear Sir:

In response to Decision on Petition dated March 23, 2000, denying a request for reconsideration of the abandonment of the above-identified application, Applicant petitions the Commissioner to reconsider the holding of abandonment of the application on the grounds that Applicant has convincing evidence consisting of (1) a copy of the response timely filed, including the fax confirmation of the same, showing that the emission was "OK", (2) a declaration signed by attorney for applicant and attorney's paralegal verifying (a) the meaning of the fax confirmation's indication of "OK", (b) the experience of the attorney and paralegal with respect to documents

having the indication "OK", and (c) averring to their personal knowledge of the fax having been timely sent. Further, Applicant's representative believes that the attached Declaration satisfies the spirit of the rules in this case.

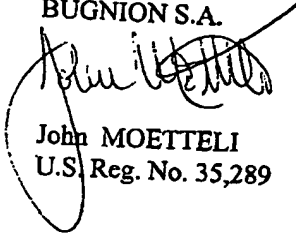
Applicant therefore requests that the rules be waived or construed in the interest of justice, in light of the evidence and averments provided herewith.

If the Commissioner has further questions, he is invited to contact the undersigned at phone 011-4122-346-8744, fax at 011-4122-346-8960 (Geneva is 6 hours ahead of Eastern Std Time), or e-mail at moetteli@bugnion.ch.

The undersigned authorizes the Commissioner to charge the deposit account of BUGNION S.A., no. 50-0800 for the fee required under 37 CFR §1.16 and §1.17.

Respectfully submitted,

BUGNION S.A.


John MOETTELI
U.S. Reg. No. 35,289

Date: May 12, 2000

Enclosed: Declaration of Facts
Copy of Decision on Petition
Copy of the fax confirmation
Copy of the faxed document (10 pages)

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On MAY 12, 2000

Typed or printed name of person signing this certificate: DEVINCENTI LAURENCE

Signature of person signing this certificate: *Devincenti*

DECLARATION OF FACTS

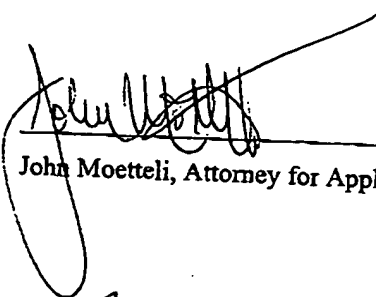
The undersigned attorney for applicant, John B. Moetteli, Reg. No. 35,289, together with his paralegal, Mrs. Laurence Devincenti, declare that:

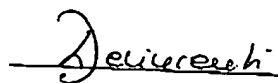
- (1) to the best of their knowledge and belief, the meaning of the fax confirmation's indication of "OK", under "Result", is that the faxed document was actually received by the recipient in its entirety;
- (2) the experience of the undersigned with respect to documents sent via the firm fax machine (in place and operational for at least the last two years, and having been used on a daily basis for faxing similar documents to various clients, associates and patent and trademark offices all over the world) and having the indication "OK" together with the time stamp thereon is that in each and every case, the document faxed was actually received, in good condition, by the recipient; and

- (3) the undersigned have personal knowledge that the fax was in fact sent on the date indicated on the fax cover sheet (namely, 06-09-99, or the 6th of September, in European date order).

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Declarants:


John Moetteli, Attorney for Applicant


Laurence Devincenti, Paralegal

Date: May 12, 2000



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

03.04.2000 09:12

Bien reçu merci
received with thanks

Paper No. 11.

dd 23.5.00
15.4.00

MAR 23 2000

In re Application of
Alain Zanco
Application No. 09/172,830
Filed: October 15, 1998
Attorney Docket No. 2348-348

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 3, 2000 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated July 30, 1999.

The petition is DISMISSED.

Petitioner alleges that a timely reply to the Office letter was in fact filed, together with a new poser of attorney and change of address, a certification under 37 CFR § 3.73(b) and a copy of an assignment document. Petitioner also alleges in the petition that these papers were filed in September, 1999. Petitioner further alleges that the petition is accompanied by proof of receipt of these papers by the Office. However, it appears that the only such proof filed with the petition is a copy of facsimile transmission confirmation listing these papers and indicating that the "Result" is "OK".

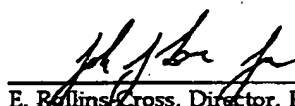
Correspondence is filed when received in the Office, 37 CFR § 1.6. The facsimile transmission confirmation sheet submitted with the petition merely indicates that a facsimile transmission was successfully transmitted, but does not serve as evidence of its timely receipt in the Office. While 37 CFR § 1.8(b)(3) makes reference to the use of a facsimile unit's report confirmation transmission as evidence to support a statement that the papers were in fact transmitted, 37 CFR § 1.8(b) is applicable by its terms only to papers filed in accordance with 37 CFR § 1.8(a), which requires that a certificate of mailing or of facsimile transmission (as is appropriate) be affixed to the correspondence. The copies of the correspondence submitted in support of the petition do not have a certificate of facsimile transmission affixed thereto.

Accordingly, there is presently no basis to find that a timely reply to the Office letter dated July 30, 1999 was in fact filed in the sense of having been received in the Office. The new power of attorney and change of address will be processed and given a date of March 3, 2000, the date of their receipt in the Office as part of the petition. Thereafter, the application will be returned

to storage as an abandoned file.

Any request for reconsideration of this decision must be filed within two months from the date of the decision, 37 CFR § 1.181(f).

PETITION DISMISSED.


E. Rollins Cross, Director, Patent
Examining Groups 3710 and 3720

JOHN MOETTELI
BUGNION S. A.
10, ROUTE DE FLORISSANT
CASE POSTALE 375
GENEVA, CH, SWITZERLAND
1211 GENEVA 12

VIA AIR MAIL

CONSEILS EN PROPRIÉTÉ INDUSTRIELLE

OUR FAX NO : 022-346 89 60
OUR TLX NO : 422 563

OUR REF. : 2348-348/
2.8493.42
SERIAL NO : 09/172.830
FILING DATE : 10/15/1998
EXAMINER : KAVANAUGH, U.

TELEFAX
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FROM : BUGNION S.A.
JOHN MOETTELX
TO : ASSISTANT COMMISSIONER FOR PATENTS
FAX : 001 703 305 3579
NUMBER OF PAGES (including this one) 10

Geneva, SEPTEMBER 6, 1999

NOTE : PLEASE FIND HEREWITH ENCLOSED :
1 AMENDMENT (5 pages)
1 CERTIFICATION UNDER 37 CFR 82.73
1 COPY OF NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT
1 COPY OF ASSIGNMENT DOCUMENT
1 POWER OF ATTORNEY OR AUTHORIZATION OF AGENT, NOT ACCOMPANYING APPLICATION

RAPPORT CONFIRMATION

06-09-99 15:12 ID: +41 22 346 89 60 NOM: BUGNION SA GENEVE

TYPE : TRANSMISSION

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BUGNION S.A.
CONSEILS EN PROPRIÉTÉ INDUSTRIELLE

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- 1 COPY OF NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT
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